

**Tuesday, November 18, 2003**

The Board met at its offices at 450 N Street, Sacramento, at 9:30 a.m., with Ms. Migden, Chairwoman, Mr. Parrish, Vice Chairman, Mr. Leonard, Mr. Chiang and Mr. Westly present.

### **PROPERTY TAXES HEARINGS**

**Cabrillo Power I, LLC (1106), 225285**

2003, \$373,200,000.00 Unitary Value

For Petitioner:

Peter Michaels, Attorney

Ed Belcher, Representative

Dannie A. Tobias, Accountant

For Property and Special Taxes Department: Michael Lebeau, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the State Board of Equalization has the jurisdiction to assess the Petitioner's electrical generation facilities.

Whether the Board's Replacement Cost New value indicator was erroneous and excessive considering the property's physical age and functional and external obsolescence.

Whether the Board staff correctly calculated the land value of the Petitioner's facility.

Whether the Board staff's Replacement Cost New factor of \$576,000.00 per MW of rated capacity was excessive for the 2003 lien date.

Whether the Board included costs related to the construction of exempt assets in the 2003 Board-adopted unitary value.

Whether the Board staff's Income value indicator is erroneous and excessive, and must be corrected and reduced.

Whether the Board should close the oral hearing to the public when discussing the Petitioner's confidential or proprietary business information.

Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered the unitary value be reduced to \$267,400,000.00 as recommended by staff.

**El Segundo Power, LLC (1110), 224764**

2003, \$192,700,000.00 Unitary Value

For Petitioner:

Peter Michaels, Attorney

Ed Belcher, Representative

Dannie A. Tobias, Accountant

For Property and Special Taxes Department: Michael Lebeau, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the State Board of Equalization has the jurisdiction to assess the Petitioner's electrical generation facilities.

Whether the Board's Replacement Cost New value indicator was erroneous and excessive considering the property's physical age and functional and external obsolescence.

Whether the Board staff's Replacement Cost New factor of \$576,000 per MW of rated capacity was excessive for the 2003 lien date.

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Whether the Board included costs related to the construction of exempt assets in the 2003 Board-adopted unitary value.

Whether the Board staff's Income value indicator is erroneous and excessive, and must be corrected and reduced.

Whether the Board should close the oral hearing to the public when discussing the Petitioner's confidential or proprietary business information.

Action: Upon motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered the unitary value be reduced to \$155,400,000.00 as recommended by staff.

**Larkspur Energy, LLC (1142), 224756**

2003, \$72,400,000.00 Unitary Value

**Indigo Generation, LLC (1141), 224754**

2003, \$98,900,000.00 Unitary Value

For Petitioner:

Fred Vance, Representative

For Property and Special Taxes Department:

Anthony Epolite, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether the Board's determination of value properly reflects the Replacement Cost Less Depreciation value and, thus, fair market value of the Petitioner's property.

Petitioner's Exhibit: Turbine Cost Analysis (Exhibit 11.1)

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition be submitted for decision.

Exhibits to these minutes are incorporated by reference.

**Elk Hills Power, LLC (1126), 224226**

2003, \$311,400,000.00 Unitary Value

For Petitioner:

Peter Michaels, Attorney

For Property and Special Taxes Department:

Anthony Epolite, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: A disqualifying contribution was disclosed to Mr. Westly. No other disqualifying contributions were disclosed.

Issues: Whether the Board incorrectly valued the land leased by the Petitioner.

Whether the Board incorrectly determined the fair market value of the Petitioner's equipment, such as gas turbines and steam turbines, as of the lien date and that the facility should instead be valued at \$459,300 per megawatt under the Replacement Cost Less Depreciation value indicator.

Whether adjustments should be made to the value of the Petitioner's facility for a capacity factor and the facility's percentage of completion of construction.

Whether emission credits are an indirect cost which is properly includable in the Board's valuation of Construction Work in Progress.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Mr. Westly not participating in accordance with Government Code section 15626, the Board ordered that the petition be submitted for decision.

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**SFPP, LP (461), 224890**

2003, \$331,700,000.00 Unitary Value

For Petitioner: Peter Michaels, Attorney

For Property and Special Taxes Department: Lou Ambrose, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Capitalized Earnings Ability (CEA) value indicator should be reduced to reflect the payment of refunds ordered by FERC in 2003.

Whether the Board's CEA value indicator should be reduced to reflect any potential refunds resulting from pending rate case filings.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition be submitted for decision.

**El Paso Natural Gas Company (197), 224873**

2003, \$52,000,000.00 Unitary Value

For Petitioner: Peter Michaels, Attorney

For Property and Special Taxes Department: Lou Ambrose, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the unitary value should be reduced due to the current lack of regulatory approval to operate a portion of the pipeline.

Whether an economic obsolescence adjustment may be made to the Historical Cost Less Depreciation value indicator based on the WSATA formula.

Whether the internal appraisal study submitted by Petitioner supports an economic obsolescence adjustment.

Whether the unitary value should be reduced for economic obsolescence due to the fact that the California portion of the pipeline may not earn revenue until it is operational.

Whether the costs of construction work in process used by staff in the HCLD value indicator should be adjusted to reflect a reduction for the equity component of capitalized allowance for funds used during construction.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition be submitted for decision.

**Global Crossing Telecommunications, Inc. (2207), 224223**

2003, \$42,000,000.00 Unitary Value

**Global Crossing North American Networks, Inc. (7536), 224224**

2003, \$29,600,000.00 Unitary Value

For Petitioner: Peter Michaels, Attorney

For Property and Special Taxes Department: Michael Lebeau, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Board's Replacement Cost value indicator fails to account for the economic obsolescence of the Petitioner's property.

Whether the Board should close the oral hearing to the public when discussing the Petitioner's confidential or proprietary business information.

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Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition be submitted for decision.

**SBC ASI (7885), 222966**

2003, \$479,900,000.00 Unitary Value, \$20,000,000.00 Penalty

For Petitioner:

Eric Miethke, Attorney

Todd Lane, Corporate Manager

For Property and Special Taxes Department: Anthony Epolite, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether it is appropriate to abate the 10 percent penalty assessed by the Board pursuant to Revenue and Taxation Code section 830 relating to the incomplete filing of the Petitioner's property statement.

Petitioner's Exhibit: Miscellaneous Documents (Exhibit 11.2)

Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the penalty be abated.

**SBC California (279), 222552**

2003, \$10,640,500,000.00 Unitary Value

For Petitioner:

Eric Miethke, Attorney

Todd Lane, Corporate Manager

For Property and Special Taxes Department: Anthony Epolite, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the RCNLD value indicator relied upon by the Board in adopting the Petitioner's unitary value incorrectly estimated pole removal costs.

Whether the capitalized engineering costs included in the Petitioner's unitary value relate to the construction of taxable property or to the Petitioner's business enterprise.

Whether the Board-adopted value improperly underestimates the amount of functional obsolescence present in the valuation of the Petitioner's taxable property.

Whether the Board's assessment of warranties, as a component of the Petitioner's cost of switching equipment, is proper.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition be submitted for decision.

**Citizens Telecommunications Company of California (284), 224857**

2003, \$174,000,000.00 Unitary Value

For Petitioner:

Peter Michaels, Attorney

Sean Beatty, Attorney

For Property and Special Taxes Department: Mary Ann Alonzo, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Board's Historical Cost Less Depreciation value indicator should be adjusted for economic obsolescence?

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Whether the Capitalized Earning Ability (CEA) value indicator improperly includes value attributable to Petitioner's non-assessable intangible assets?

Whether the Board should close the oral hearing to the public when discussing the Petitioner's confidential or proprietary business information.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition be submitted for decision.

**Comcast Phone of California, LLC (7553), 224483**

2003, 258,800,000.00 Unitary Value

For Petitioner:

Peter Hladek, Representative

Rich Bell, Comcast Company Representative

For Property and Special Taxes Department: Lou Ambrose, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Board's Replacement Cost indicator of value included a proper adjustment for external economic obsolescence for Customer Premise Equipment.

Whether the Board failed to apply Property Tax Rule 6(e) in the calculation of the Replacement Cost New Less Depreciation indicator of value.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition be submitted for decision.

**Alpine PCS, Inc. (2746), 224049**

2003, \$24,900,000.00 Unitary Value

For Petitioner:

Robert Broz, President

For Property and Special Taxes Department: Lou Ambrose, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether additional obsolescence warrants a substantial reduction in the Board-adopted unitary value.

Whether a purchase offer for Petitioner's equipment is a reliable indicator of fair market value.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition be submitted for decision.

**FINAL ACTION ON PETITIONS HEARD NOVEMBER 18, 2003**

Upon motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that in the petition of *Larkspur Energy, LLC (1142), 224756*; the unitary value be reduced to \$70,700,000.00 as recommended by staff.

Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that in the petition of *Indigo Generation, LLC (1141), 224754*, the unitary value be reduced to \$95,100,000.00 as recommended by staff.

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Mr. Parrish moved in the petition of *Elk Hills Power, LLC (1126), 224226*, the unitary value be reduced to \$286,000,000.00. The motion was seconded by Mr. Leonard but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden and Mr. Chiang voting no, Mr. Westly not participating in accordance with Government Code section 15626.

Ms. Migden moved to deny the petition of *SFPP, LP (461), 224890*.  
Ms. Migden withdrew her motion.

Upon motion of Mr. Parrish, seconded by Mr. Leonard and duly carried, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, Ms. Migden voting no, the Board ordered the unitary value be reduced to \$318,700,000.00.

Mr. Chiang stated for the record that he wants to see the development of this year, if in fact what was articulated today does not in fact take place, he will not apply the five-year average next year.

### PROPERTY TAXES HEARINGS

#### All American Pipeline, LP (465), 224027

2003, \$59,300,000.00 Unitary Value

For Petitioner:

Appearance Waived

For Property and Special Taxes Department:

Michael Lebeau, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Board Staff's estimate of remaining economic life and percent good are incorrect.

Whether the utility factor of the Petitioner's property should be corrected to eliminate a mathematical error.

Whether the Petitioner's abandonment obligations warrant recognition of an obsolescence adjustment.

Whether the "value" associated with the Petitioner's operating oil supply should be corrected in the RCN value indicator.

Whether Petitioner inadvertently understated revenues totaling \$4,000,000.00 in its 2003 Property Statement.

Whether staff's estimate of the throughput of the Petitioner's pipeline exceeds that reported by the Mineral Management Service.

Whether the minimum throughput of the Petitioner's pipeline will be reached in 2010.

Action: Upon motion of Ms. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the unitary value be increased to \$61,600,000.00 as recommended by staff.

#### All American Pipeline, LP (465), 225290

2003, 21% Kern County Allocated Pipeline Value

2003, 26% San Luis Obispo Allocated Pipeline Value

2003, 53% Santa Barbara Allocated Pipeline Value

For Petitioner:

Appearance Waived

For Property and Special Taxes Department:

Michael Lebeau, Tax Counsel

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Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether the Board correctly allocated the Petitioner's unitary value between Santa Barbara, San Luis Obispo, and Kern Counties.

Action: Upon motion of Ms. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petitioner's unitary value be allocated as recommended by staff.

### **FINAL ACTION ON PETITIONS HEARD NOVEMBER 18, 2003**

Mr. Leonard moved that in the petition of *El Paso Natural Gas Company (197), 224873*, the unitary value be reduced to \$46,000,000.00. The motion was seconded by Mr. Parrish but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Upon motion of Mr. Westly, seconded by Ms. Migden and duly carried, Ms. Migden Mr. Chiang and Mr. Westly voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered that the petition be denied.

Upon motion of Mr. Westly, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition of *Global Crossing Telecommunications, Inc. (2207), 224223*, be denied and an audit of the lien date year be performed.

Upon motion of Mr. Westly, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition of *Global Crossing North American Network, Inc. (7536), 224224*, be denied and an audit of the lien date year be performed.

Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that in the petition of *SBC California (279), 222552*, the staff's revised recommendation of \$10,325,031,382.00 be additionally reduced by \$125,000,000.00 to \$10,200,031,382.00 to reflect the adjustment to the telephone poles salvage values.

Ms. Migden moved that the petition of *Citizens Telecommunications Company of California (284), 224857*, be denied. The motion was seconded by Mr. Westly. Mr. Leonard made a substitute motion to reduce the unitary value to \$164,000,000.00. The motion was seconded by Mr. Parrish but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Mr. Westly voting no.

Upon motion of Ms. Migden, seconded by Mr. Westly and duly carried, Ms. Migden, Mr. Chiang and Mr. Westly voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered that the petition be denied.

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**PROPERTY TAXES HEARINGS**

NTT America, Inc. (7732), 224949

2003, \$12,100,000.00 Unitary Value, \$1,210,000.00 Penalty

For Petitioner: Appearance Waived

For Property and Special Taxes Department: Michael Lebeau, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether Board staff properly recognized the economic obsolescence of the Petitioner's property.

Whether the Board should abate the 10 percent late filing penalty enrolled pursuant to Revenue and Taxation Code section 830.

Action: Upon motion of Mr. Westly, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition be denied.

**FINAL ACTION ON PETITION HEARD NOVEMBER 18, 2003**Upon motion of Mr. Chiang, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered that the petition of *Comcast Phone of California, LLC (7553), 224483*, be denied.**PROPERTY TAXES HEARINGS**

Qwest Interprise America, Inc. (7577), 222779

2003, 7,460,000.00 Unitary Value

For Petitioner: Appearance Waived

For Property and Special Taxes Department: Michael Lebeau, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Petitioner's unexpected obsolescence makes the Replacement Cost Less Depreciation (ReplCLD) value indicator an unreliable indicator of the market value of Petitioner's property.

Whether the Board's ReplCLD value indicator fails to account for the substantial obsolescence of the Petitioner's property.

Whether the Board should close the oral hearing to the public when discussing the Petitioner's confidential or proprietary business information.

Action: Upon motion of Mr. Chiang, seconded by Mr. Westly and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board adopted staff's revised recommendation which reduced the 2003 Unitary Value to \$774,000.00.

**FINAL ACTION ON PETITION HEARD NOVEMBER 18, 2003**Upon motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board ordered in the petition of *Alpine PCS, Inc. (2746), 224049*, to adopt the revised staff recommendation which reduced the 2003 Unitary Value to \$18,500,000.00.



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**PROPERTY TAXES HEARINGS****AB Cellular Holding, LLC (2547), 224201**

2003, \$581,000,000.00 Unitary Value

**Bay Area Cellular Telephone Company (2502), 224204**

2003, \$363,100,000.00 Unitary Value

**Napa Cellular Telephone Company (2628), 224209**

2003, \$23,200,000.00 Unitary Value

**Nevada County Cellular Corporation (2676), 224210**

2003, \$2,600,000.00 Unitary Value

**Visalia Cellular Telephone Company (2641), 224215**

2003, \$8,050,000.00 Unitary Value

For Petitioner:

Appearance Waived

For Property and Special Taxes Department: Paul Steinberg, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the percent Replacement Cost Less Depreciation (ReplCLD) indicator should be weighted 100 percent?

Whether the ReplCLD indicator results in the correct value for TDMA equipment.

Action: Upon motion of Ms. Migden, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board adopted staff's revised recommendation which reduced the 2003 unitary value of *AB Cellular Holding, LLC (2547), 224201* to \$475,200,000.00, *Bay Area Cellular Telephone Company (2502), 224204* to \$297,000,000.00, *Napa Cellular Telephone Company (2628), 224209* to \$10,500,000.00, *Nevada County Cellular Corporation (2676), 224210* to \$1,290,000.00, and *Visalia Cellular Telephone Company (2641), 224215* to \$6,000,000.00.

**Bakersfield Cellular Telephone Company (2622), 224205**

2003, \$24,800,000.00 Unitary Value

**Cagal Cellular Communications Corporation (2611), 224206**

2003, \$13,600,000.00 Unitary Value

**AT&T Wireless Services of California, LLC (2606), 224208**

2003, \$320,200,000.00 Unitary Value

**AT&T Wireless PCS, LLC (2749), 224211**

2003, \$92,800,000.00 Unitary Value

**Redding Cellular Partnership (2639), 224212**

2003, \$3,470,000.00 Unitary Value

**Salinas Cellular Telephone Company (2637), 224213**

2003, \$15,500,000.00 Unitary Value

**Santa Barbara Cellular Systems, Ltd. (2626), 235463**

2003, \$34,400,000.00 Unitary Value

**Yuba City Cellular Telephone Company (2643), 224216**

2003, \$1,980,000.00 Unitary Value

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Dobson Cellular Systems, Inc. (2675), 224217

2003, \$22,400,000.00 Unitary Value

Santa Cruz Cellular Telephone Company (2630), 224218

2003, \$7,770,000.00 Unitary Value, \$777,000.00 Penalty

For Petitioner: Appearance Waived

For Property and Special Taxes Department: Paul Steinberg, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Board-adopted unitary value properly takes into account functional obsolescence.

Whether the late filing penalty imposed on Santa Cruz Cellular Telephone Company should be abated.

Action: Upon motion of Mr. Parrish, seconded by Mr. Westly and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Mr. Westly voting yes, the Board adopted staff's recommendation to deny all petitions for value reduction and to abate the penalty (\$777,000.00) for *Santa Cruz Cellular Telephone Company (2630)*.

The Board recessed at 12:00 p.m. and reconvened at 1:05 p.m. with Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang present.

**PROPERTY TAXES HEARINGS**

West Coast P.C.S. (2745), 224225

2003, \$66,800,000.00 Unitary Value

For Petitioner: Peter Michaels, Attorney

Jon Sperring, Representative

For Property and Special Taxes Department: Michael Lebeau, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issues: Whether the Board included the costs attributable to exempt property in the 2003 Board-adopted unitary value of the Petitioner's property.

Whether the Board's Replacement Cost value indicator was contrary to the principles outlined in the Unitary Valuation Methods manual and fails to account for the obsolescence of the Petitioner's property.

Whether the Board should close the oral hearing to the public when discussing the Petitioner's confidential or proprietary business information.

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Mr. Westly absent, the Board deferred consideration of the matter to the December 4, 2003 meeting.

BT Americas, Inc. (7758), 224608

2003, \$18,400,000.00 Unitary Value

For Petitioner: No Appearance

For Property and Special Taxes Department: Michael Lebeau, Tax Counsel

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Issue: Whether the Petitioner's Board-adopted 2003 unitary value included an amount of overstated property from its 2003 property statement

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Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Mr. Westly absent, the Board ordered that the petition be denied.

Ms. Mandel entered the Boardroom on behalf of Mr. Westly in accordance with Government Code section 7.9.

**LEGAL APPEALS MATTERS, ADJUDICATORY**

**Santa Ynez Band of Mission Indians, 37763**

1-1-95 to 6-30-98, \$350,964.22 Claim for Refund

Considered by the Board: August 6, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that claim for refund be granted and the petition for rehearing be denied.

**Larry's Auto Sales, Inc., 164577**

4-1-98 to 3-31-00, \$5,858.54 Tax, \$1,002.52 Negligence Penalty

Considered by the Board: September 24, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Mr. Leonard moved to cancel the negligence penalty. The motion was seconded by Mr. Parrish but failed to carry, Mr. Parrish and Mr. Leonard voting yes, Ms. Migden, Mr. Chiang and Ms. Mandel voting no.

Upon motion of Ms. Migden, seconded by Ms. Mandel and duly carried, Ms. Migden, Mr. Chiang and Ms. Mandel voting yes, Mr. Parrish and Mr. Leonard voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

**K-Mart Corporation, 162539**

1-2-97 to 12-27-00, \$1,629,420.20 Tax

Considered by the Board: Hearing Request Withdrawn

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

**Cardinal Health 110, Inc. (formerly Whitmire Distribution Corporation), 30641**

7-7-93 to 9-30-96, \$525,387.64 Tax, \$00.00 Negligence Penalty

Considered by the Board: October 15, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Ms. Migden moved to deny the petition. The motion was seconded by Mr. Parrish but failed to carry, Ms. Migden and Mr. Parrish voting yes, Mr. Chiang, Mr. Leonard and Ms. Mandel voting no.

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Ms. Mandel moved to grant the petition. The motion was seconded by Mr. Leonard but failed to carry, Mr. Leonard and Ms. Mandel voting yes, Ms. Migden, Mr. Parrish and Mr. Chiang voting no.

Upon motion of Ms. Migden, seconded by Mr. Chiang and duly carried, Ms. Migden, Mr. Parrish and Mr. Chiang voting yes, Mr. Leonard and Ms. Mandel voting no, the Board ordered that the petition be redetermined as recommended by the Appeals Division.

### **CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, ADJUDICATORY**

Douglas and Janine Leishear, 205946

1992, \$388.65 Assessment

Considered by the Board: September 24, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Migden, seconded by Mr. Parrish and duly carried, Ms. Migden, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang and Ms. Mandel voting no, the Board adopted a decision reversing the action of the Franchise Tax Board.

Murray Stein, 203452

1990, \$8,864.61 Claim for Refund

Considered by the Board: September 24, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Migden, seconded by Mr. Parrish and duly carried, Ms. Migden, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang and Ms. Mandel voting no, the Board adopted a decision reversing the action of the Franchise Tax Board.

OII Third Partial Consent Decree Cash Account Escrow, 139239

1992, \$2,843.00 Tax, \$1,421.50 Penalties

1993, \$9,558.00 Tax, \$4,779.00 Penalties

1994, \$12,067.00 Tax, \$6,033.50 Penalties

1995, \$28,707.00 Tax, \$14,353.50 Penalties

1996, \$36,273.00 Tax, \$18,136.50 Penalties

1997, \$37,007.00 Tax, \$18,503.50 Penalties

Considered by the Board: September 11, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: The Board deferred consideration of the matter to November 19, 2003.

### **HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, ADJUDICATORY**

Lorraine C. Bryant, 202289

2002, \$1.00 or more Claim for Credit

Considered by the Board: September 24, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

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Action: Upon motion of Mr. Leonard, seconded by Mr. Parrish and duly carried, Ms. Migden, Mr. Parrish and Mr. Leonard voting yes, Mr. Chiang and Ms. Mandel voting no, the Board adopted a decision reversing the action of the Franchise Tax Board.

**SALES AND USE TAX MATTERS, REDETERMINATIONS, ADJUDICATORY**

AT&T Communications, Inc., 152004

1-1-95 to 12-31-97, \$347,218.10 Tax

Considered by the Board: February 5, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Ms. Mandel not participating, the Board approved the redetermination as recommended by staff.

Wanpen Pirom, 111824

11-17-97 to 4-24-00, \$207,010.49 Tax

Considered by the Board: October 15, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board approved the redetermination as recommended by staff.

**SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, ADJUDICATORY**

Universal Instruments Corporation, 235267

7-1-01 to 9-30-01, \$52,683.00 Tax

Considered by the Board: October 15, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Mr. Parrish, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board approved the credit and cancellation as recommended by staff.

HR Textron Inc., 198086

1-1-01 to 6-30-02, \$69,667.60 Tax

Considered by the Board: October 15, 2003

Contribution Disclosures pursuant to Government Code section 15626: None were disclosed.

Action: Upon motion of Ms. Migden, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board approved the refund as recommended by staff.

Tuesday, November 18, 2003

**LEGAL APPEALS MATTERS, CONSENT**

With respect to the Legal Appeals Matters Consent Agenda, upon a single motion of Mr. Parrish, seconded by Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

**Jewelry Doctor, Inc., 89000112920**

1-1-93 to 12-31-95, \$83,020.07 Tax, \$8,302.03 Negligence Penalty

Action: Deny the petition for rehearing as recommended by the Appeals Division.

**Sam D'Ambrosio, 145476**

7-1-97 to 9-30-00, \$9,943.32 Tax

Action: Deny the petition for rehearing as recommended by the Appeals Division.

**Arrow International, Inc., 138595**

10-1-96 to 12-31-99, \$102,088.06 Tax

Action: Deny the petition for rehearing as recommended by the Appeals Division.

**E. R. Squibb & Sons, Inc., 105409**

4-1-96 to 6-30-99, \$00.00 Tax

Action: Redetermine as recommended by the Appeals Division.

**Kiewit Pacific Company, 145697**

1-1-96 to 12-31-98, \$1,107.20 Tax

Action: Redetermine as recommended by the Appeals Division.

**Winkler McManus (aka Winkler Advertising, Inc.), 89000658260, 89000658270**

1-1-93 to 12-31-95, \$39,728.19 Tax

Action: Redetermine as recommended by the Appeals Division.

**Malkiat Singh, 237061**

June 4, 2003 Notice of Seizure and Forfeiture

Action: Determined the staff properly seized the cigarettes.

**Vanco Foods, Inc., 239692**

March 6, 2003 Notice of Seizure and Forfeiture

Action: Determined the staff properly seized the cigarettes.

**CORPORATE FRANCHISE AND PERSONAL INCOME TAX MATTERS, CONSENT**

With respect to the Corporate Franchise and Personal Income Tax Matters Consent Agenda, upon a single motion of Mr. Chiang, seconded by Ms. Mandel and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

**Tuesday, November 18, 2003**

**Susan L. Abel, 209051**

1999, \$428.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

**American General Realty Investment Corporation, Inc., 156726**

1991, \$8,640,922.00 Claim for Refund

Action: Deny the Franchise Tax Board's request for publication.

**Max Azria, 204976**

2000, \$298,921.37 Assessment

Action: Sustain the action of the Franchise Tax Board.

**Stephen Balakirsky, 197555**

1997, \$1,176.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

**Maurice E. Banks, 195427**

1998, \$351.00 Assessment

Action: Reverse the action of the Franchise Tax Board.

**Kim D. Bell, 208992**

2000, \$1,259.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

**Emeteria Bolo, 212917**

1999, \$205.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

**California Style Home Collections, LLC, 213528**

2000, \$654.42 Claim for Refund

Action: Modify the action the Franchise Tax Board, which included a concession.

**Dora Chung, 202286**

1998, \$746.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

**Cinema Plaza Partners, LP, 207907**

1998, \$550.00 Claim for Refund

1991, \$550.00 Claim for Refund

2000, \$1,535.29 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Tuesday, November 18, 2003

**Roger Louis DeFosse, 208752**

1998, \$241.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

**Wilson C. A. Dunn, 207682**

1998, \$781.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

**Good Earth Enterprises, Inc., 208809**

1997, \$693.10 Claim for Refund

1998, \$571.23 Claim for Refund

1999, \$467.04 Claim for Refund

2000, \$377.15 Claim for Refund

2001, \$278.69 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

**Gregory J. Hobbs and Patricia Ann Martin, 187092**

1996, \$1,466.00 Tax, \$293.20 Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$2,500.00 frivolous appeal penalty.

**LaVonne Hodgson, 195038**

1999, \$306.00 Tax, \$100.00 Penalty

Action: Sustain the action of the Franchise Tax Board and impose a \$2,500.00 frivolous appeal penalty.

**Joe Kauffman, 209881**

1998, \$286.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

**Walter H. Kopinski, 215504**

1994, \$5,536.00 Tax, \$2,491.20 Penalty

Action: Sustain the action of the Franchise Tax Board.

**Kandis Malefyt, 210097**

1999, \$260,937.50 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

**Jose G. Nunez, 215271**

2000, \$396.00 Assessment

Action: Sustain the action of the Franchise Tax Board.



**Tuesday, November 18, 2003**

Stephen E. and Barbara J. Pazian, 193379, 207901

1997, \$4,988.75 Claim for Refund

1999, \$31,746.75 Claim for Refund

2001, \$881.81 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Matthew Joseph Peddecord, 202128

1999, \$1.00 or more Assessment

Action: Sustain the action of the Franchise Tax Board.

Rebecca and Charles R. Ramsay, III, 209593

1998, \$1,147.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Oscar and Joyce Sesma, 203456

1996, \$136,333.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

E. Sylvia Simpson, 206174

1998, \$565.00 Assessment

Action: Sustain the modified action of the Franchise Tax Board.

Kenneth J. and Susan Slee, 195037

1999, \$4,824.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

William and Margaret Sticklen, 196904

1998, \$27,900.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Today's Desserts, Inc., 202270

2001, \$800.00 Tax, \$62.64 Penalty

Action: Sustain the action of the Franchise Tax Board.

Eric A. Wallace, 205964

1998, \$2,337.00 Assessment

Action: Sustain the action of the Franchise Tax Board.

Robert G. and Pamela D. Wright, 215112

2000, \$861.83 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Yanonali Properties, LLC, 202043

1999, \$406.10 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Tuesday, November 18, 2003

Isaac and Shoshana Yetiv, 214767

2000, \$441.00 Claim for Refund

Action: Sustain the action of the Franchise Tax Board.

Darryl F. LaFountaine, 90044

1993, \$1,289.00 Assessment

Action: Deny the petition for rehearing.

Kenneth A. Sauer and Eliza B. Sauer, 190269

1998, \$1,729.00 Tax, \$960.50 Penalties

1998, \$1,621.00 Tax, \$1,288.25 Penalties

Action: Deny the petition for rehearing.

**HOMEOWNER AND RENTER PROPERTY TAX ASSISTANCE MATTERS, CONSENT**

With respect to the Homeowner and Renter Property Tax Assistance Matters Consent Agenda, upon a single motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

Eva Carrillo, 209614

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Oswald Estrada, 207688

2000, \$394.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Rosalinda Lewis, 196636

2002, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Darrell George Magee, 212817

2002, \$247.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Latrina McCullun, 218276

2002, \$347.50 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Christine Nardico, 209877

2001, \$1.00 or more Claim for Credit

2002, \$1.00 or more Claim for Credit

Action: Modify the action of the Franchise Tax Board.

Tuesday, November 18, 2003

Gilbert Rodriguez, 208519

2000, \$240.00 Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Gwen Swan, 209540

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Zhao Rong Wang, 212513

2002, \$1.00 or more Claim for Credit

Action: Sustain the action of the Franchise Tax Board.

Theopolis Jackson, 197509

2002, \$1.00 or more Claim for Refund

Action: Deny the petition for rehearing.

Philip Jevanian, 203083

1999, \$340.00 Claim for refund

Action: Deny the petition for rehearing.

Virginia M. Larson, 170719

2000, \$600.00 Claim for credit

Action: Modify the action of the Franchise Tax Board and deny the petition for rehearing.

**SALES AND USE TAX MATTERS, REDETERMINATIONS AND DENIALS OF CLAIMS FOR REFUND, CONSENT**

With respect to the Sales and Use Tax Matters, Redeterminations and Denials of Claims for Refund, Consent Agenda, upon a single motion of Ms. Migden, seconded by Mr. Leonard and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Mandel not participating in *Cisco Systems, Inc., 238681*, the Board made the following orders:

Iron Mtn Off Site Data Prtctn, Inc., 207665

1-1-98 to 12-31-01, \$592,164.41

Action: Approve the redetermination as recommended by staff.

R. C. Collet, Inc., 119162

7-1-97 to 6-30-00, \$192,647.50

Action: Approve the redetermination as recommended by staff.

Weigh-Tronix, Inc., 198275

7-1-98 to 6-30-01, \$55,401.42

Action: Approve the redetermination as recommended by staff.

Tuesday, November 18, 2003

Kelly Juergensen Letts, 195974

7-1-99 to 12-31-99, \$64,689.41

Action: Approve the redetermination as recommended by staff.

Oakwood Mobile Homes, Inc., 218318

10-1-98 to 11-14-02, \$383,883.22

Action: Approve the redetermination as recommended by staff.

21st Century Graphics, 142836

4-1-97 to 3-31-00, \$50,938.34

Action: Approve the redetermination as recommended by staff.

Consolidated Electrical Dstrs., Inc., 222092

10-1-92 to 9-30-95, \$596,431.87

Action: Approve the denial of claim for refund as recommended by staff.

Cisco Systems, Inc., 238681

4-1-00 to 6-30-02, \$113,292.19

Action: Approve the denial of claim for refund as recommended by staff. Ms. Mandel not participating.

**SALES AND USE TAX MATTERS, CREDITS, CANCELLATIONS AND REFUNDS, CONSENT**

With respect to the Sales and Use Tax Matters, Credits, Cancellations and Refunds, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Mandel not participating in *Cisco Systems, Inc., 202949*, the Board made the following orders:

Application Engineering Corporation, 195764

1-1-98 to 12-31-00, \$59,695.27

Action: Approve the credit and cancellation as recommended by staff.

Masaru Yoshimoto, 187434

1-1-86 to 12-31-90, \$120,178.89

Action: Approve the credit and cancellation as recommended by staff.

Tweeter of California, Inc., 239617

7-1-01 to 3-1-03, \$198,172.05

Action: Approve the credit and cancellation as recommended by staff.

**Tuesday, November 18, 2003**

**Aquaria, Inc., 238732**

4-1-00 to 3-31-03, \$55,146.91

Action: Approve the refund as recommended by staff.

**La-Salle Paper Company, 206925**

10-1-99 to 12-31-02, \$387,627.80

Action: Approve the refund as recommended by staff.

**Allsale Electric, Inc., 223477**

1-1-02 to 6-30-02, \$80,278.97

Action: Approve the refund as recommended by staff.

**Soligen, Inc., 211754**

4-1-99 to 12-31-02, \$67,296.22

Action: Approve the refund as recommended by staff.

**Ellison Machinery Company Northern California, 113319**

7-1-00 to 12-31-00, \$177,585.00

Action: Approve the refund as recommended by staff.

**F P C, Inc., 208345**

1-1-00 to 6-30-02, \$190,021.56

Action: Approve the refund as recommended by staff.

**American Honda Finance Corporation, 115777**

1-1-98 to 3-31-01, \$1,178,291.86

Action: Approve the refund as recommended by staff.

**Cisco Systems, Inc., 202949**

4-1-00 to 6-30-02, \$546,236.97

Action: Approve the refund as recommended by staff. Ms. Mandel not participating.

**Provident Central Credit Union, 238680**

4-1-98 to 12-31-02, \$234,142.03

Action: Approve the refund as recommended by staff.

**Operon Technologies, Inc., 240363**

7-1-99 to 12-31-02, \$136,010.93

Action: Approve the refund as recommended by staff.

**Dadant & Sons, Inc., 239501**

1-1-03 to 6-30-03, \$90,384.56

Action: Approve the refund as recommended by staff.

Tuesday, November 18, 2003

Toshiba Machine Company America, 19454

10-1-97 to 12-31-97, \$133,904.87

Action: Approve the refund as recommended by staff.

Polytec PI, Inc., 220271

4-1-00 to 12-31-01, \$78,611.13

Action: Approve the refund as recommended by staff.

Visger Precision, Inc., 219266

1-1-00 to 3-31-02, \$103,306.51

Action: Approve the refund as recommended by staff.

Ando Corporation, 146222

10-1-99 to 3-31-03, \$93,169.01

Action: Approve the refund as recommended by staff.

Pacific Coast Bldg. Products, Inc., 224769

4-1-02 to 6-30-02, \$79,133.62

Action: Approve the refund as recommended by staff.

Manugistics, Inc., 201849

7-1-00 to 9-30-00, \$165,206.29

Action: Approve the refund as recommended by staff.

American Equipment Company, Inc., 143620

4-1-00 to 6-30-01, \$94,892.08

Action: Approve the refund as recommended by staff.

KGP Telecommunication, Inc., 161361

1-1-00 to 12-31-00, \$155,026.58

Action: Approve the refund as recommended by staff.

Bloomberg LP, 219639

7-1-02 to 9-30-02, \$562,484.60

Action: Approve the refund as recommended by staff.

Ivy Hill Corporation, 80555

4-1-95 to 6-30-98, \$504,859.21

Action: Approve the refund as recommended by staff.

Chep USA, 182696

1-1-00 to 3-31-02, \$2,575,545.30

Action: Approve the refund as recommended by staff.

**Tuesday, November 18, 2003**

**Ford Motor Company, 240192**

4-1-03 to 8-31-03, \$1,105,419.75

Action: Approve the refund as recommended by staff.

**Chevrolet Motor Division, 240591**

4-1-03 to 9-30-03, \$839,895.32

Action: Approve the refund as recommended by staff.

**Barclays Global Investors, N.A., 240586**

7-1-01 to 3-31-02, \$81,364.54

Action: Approve the refund as recommended by staff.

**E\*Trade Group, Inc., 239163**

10-1-98 to 3-31-02, \$128,679.83

Action: Approve the refund as recommended by staff.

**Pacific American Securities, LLC, 196902**

4-1-99 to 3-31-02, \$59,229.01

Action: Approve the refund as recommended by staff.

**Rochdale Securities Corporation, 240297**

7-1-99 to 3-31-02, \$102,938.81

Action: Approve the refund as recommended by staff.

**Westminster Research Assoc., Inc., 240551**

7-1-99 to 3-31-02, \$123,539.39

Action: Approve the refund as recommended by staff.

**Montgomery Asset Management, LLC, 240498**

7-1-99 to 3-31-02, \$54,147.96

Action: Approve the refund as recommended by staff.

**Caymus Vineyards, 237161**

6-22-01, \$214,382.17

Action: Approve the refund as recommended by staff.

**Donn R. Roberts Enterprises, Inc., 182273**

4-1-00 to 12-31-01, \$105,358.45

Action: Approve the refund as recommended by staff.

**Champion Solutions Group, Inc., 224071**

7-1-02 to 9-30-02, \$50,406.96

Action: Approve the refund as recommended by staff.

Tuesday, November 18, 2003

Premier Waterworld Sacramento, Inc., 239845

4-1-02 to 9-30-02, \$51,959.91

Action: Approve the refund as recommended by staff.

Cox Communications, PCS, LP, 201896

10-1-00 to 12-31-01, \$646,027.78

Action: Approve the refund as recommended by staff.

I.D. Business Solutions, Inc., 224143

1-1-01 to 3-31-01, \$59,331.96

Action: Approve the refund as recommended by staff.

Optonics, Inc., 234590

4-1-02 to 9-30-02, \$126,891.59

Action: Approve the refund as recommended by staff.

Martini Ranch San Diego, LLC, 194653

12-1-99 to 6-30-02, \$74,932.58

Action: Approve the refund as recommended by staff.

Anda Networks, Inc., 219262

1-1-00 to 9-30-02, \$82,203.39

Action: Approve the refund as recommended by staff.

Edison Material Supply, LLC, 236870

10-1-99 to 9-30-01, \$427,482.65

Action: Approve the refund as recommended by staff.

Agilent Technologies, Inc., 224066

4-1-00 to 9-30-00, \$85,488.38

Action: Approve the refund as recommended by staff.

Schweitzer Eng. Labs, Inc., 171505

1-1-02 to 3-31-02, \$65,911.33

Action: Approve the refund as recommended by staff.

Gambro Renal Products, Inc., 239695

1-1-02 to 12-31-02, \$63,377.30

Action: Approve the refund as recommended by staff.

Gambro Renal Products, Inc., 239699

1-1-02 to 12-31-02, \$90,395.89

Action: Approve the refund as recommended by staff.



**Tuesday, November 18, 2003**

**Kern Schools Federal Credit Union, 133023**

4-1-98 to 6-30-01, \$87,559.89

Action: Approve the refund as recommended by staff.

**Evant, Inc., 193755**

4-1-01 to 3-31-02, \$300,991.08

Action: Approve the refund as recommended by staff.

**Strouds Acquisition Corporation, 187973**

4-28-01 to 4-6-02, \$72,898.08

Action: Approve the refund as recommended by staff.

**Xenogen Corporation, 168069**

1-1-99 to 12-31-01, \$84,675.82

Action: Approve the refund as recommended by staff.

**BP West Coast Products, LLC, 220969**

1-1-02 to 6-30-02, \$123,208.41

Action: Approve the refund as recommended by staff.

**Palmone, Inc., 238679**

4-1-99 to 3-31-02, \$452,436.13

Action: Approve the refund as recommended by staff.

**OfficeMax, Inc., 204961**

7-1-98 to 9-30-98, \$123,205.21

Action: Approve the refund as recommended by staff.

**Mann Packing Company, Inc., 145365**

7-1-98 to 9-30-01, \$54,503.99

Action: Approve the refund as recommended by staff.

**Fresh Latitudes World Café, Inc., 220267**

10-1-00 to 12-31-00, \$97,827.18

Action: Approve the refund as recommended by staff.

**Industry Color Printing, Inc., 138525**

7-1-98 to 12-31-01, \$389,561.73

Action: Approve the refund as recommended by staff.

**Lobel Financial Corporation, 209749**

7-1-02 to 3-31-03, \$103,394.72

Action: Approve the refund as recommended by staff.

Tuesday, November 18, 2003

Alliance Credit Union, 188802

4-1-99 to 12-31-02, \$76,065.72

Action: Approve the refund as recommended by staff.

California Coast Credit Union, 216920

1-1-00 to 12-31-02, \$89,889.38

Action: Approve the refund as recommended by staff.

Sunrise Telecom Inc. of Delaware, 217179

4-1-99 to 6-30-01, \$68,553.18

Action: Approve the refund as recommended by staff.

Cal State Cntrl C.U. of North Bay, 240298

4-1-99 to 3-31-03, \$76,891.44

Action: Approve the refund as recommended by staff.

**SPECIAL TAXES MATTERS, REFUNDS, CONSENT**

With respect to the Special Taxes Matters, Refunds, Consent Agenda, upon a single motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9 in *Reassure America Life Ins. Company, 172838; Tokio Marine & Fire Ins. Company, Ltd., 239169; Reassure America Life Ins. Company, 213190; Reassure America Life Ins. Company, 213191; and, Metropolitan Life Insurance Company, 240628*; the Board made the following orders:

First Student, Inc., 114796

4-1-96 to 6-30-99, \$90,410.20

Action: Approve the refund as recommended by staff.

Reassure America Life Ins. Company, 172838

1-1-99 to 12-31-99, \$67,314.93

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Tokio Marine &amp; Fire Ins. Company, Ltd., 239169

1-1-02 to 12-31-02, \$137,444.09

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Reassure America Life Ins. Company, 213190

1-1-01 to 12-31-01, \$187,960.86

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Tuesday, November 18, 2003

Reassure America Life Ins. Company, 213191

1-1-00 to 12-31-00, \$226,221.62

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Grocers Specialty Company, 219581

5-1-03 to 5-31-03, \$62,910.49

Action: Approve the refund as recommended by staff.

Metropolitan Life Insurance Company, 240628

1-1-02 to 12-31-02, \$1,060,674.44

Action: Approve the refund as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

#### **PROPERTY TAX MATTERS, CONSENT**

With respect to the Property Taxes Matters, Consent Agenda, upon a single motion of Mr. Chiang, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board made the following orders:

#### **Petitions for Reassessment of Unitary Value**

Sierra Pacific Power Company (146), 224741

2003, \$174,900,000.00 Unitary Value

Action: Adopt reduced unitary value of \$170,700,000.00 as recommended by staff.  
Ms. Mandel not participating in accordance with Government Code section 7.9.

Southern California Edison Company (148), 223875

2003, \$9,004,700,000.00 Unitary Value

Action: Deny the petition for reassessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

North Baja Pipeline, LLC (180), 224479

2003, \$91,400,000.00 Unitary Value

Action: Adopt reduced unitary value of \$87,900,000.00 as recommended by staff.  
Ms. Mandel not participating in accordance with Government Code section 7.9.

Mojave Pipeline Company (187), 224891

2003, \$93,500,000.00 Unitary Value

Action: Adopt reduced unitary value of \$90,700,000.00 as recommended by staff.  
Ms. Mandel not participating in accordance with Government Code section 7.9.

Tuesday, November 18, 2003

**Sprint Communications Company, LP (2014), 224150**

2003, \$895,800,000.00 Unitary Value

Action: Adopt reduced unitary value of \$782,800,000.00 as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

**Cable & Wireless USA, Inc. (2035), 224220**

2003, \$66,900,000.00 Unitary Value

Action: Adopt reduced unitary value of \$59,200,000.00 as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

**VIA Wireless, LLC (2747), 224222**

2003, \$55,200,000.00 Unitary Value

Action: Deny the petition for reassessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**Terabeam Corporation (2765), 224189**

2003, \$1,110,000.00 Unitary Value

Action: Adopt reduced unitary value of \$885,000.00 as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

**360Networks (USA), Inc. (7779), 224950**

2003, \$26,100,000.00 Unitary Value

Action: Deny the petition for reassessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**01 Communications, Inc. (7791), 224761**

2003, \$2,670,000.00 Unitary Value

Action: Adopt reduced unitary value of \$2,220,000.00 as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

**Touch America, Inc. (7877), 224472**

2003, \$50,200,000.00 Unitary Value

Action: Adopt reduced unitary value of \$28,700,000.00 as recommended by staff.

Ms. Mandel not participating in accordance with Government Code section 7.9.

**Petitions for Reassessment and Penalty Abatement on Unitary Value****UbiquiTel, Inc. (2751), 224221**

2003, \$19,500,000.00 Unitary Value, \$1,950,000.00 Penalty

Action: Deny the petition for reassessment and penalty abatement on unitary value as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

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Talk America, Inc. (7677), 223877

2003, \$1,130,000.00 Value, \$113,000.00 Penalty

Action: Deny the petition for reassessment and penalty abatement on unitary value as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**Petition for Penalty Abatement on Unitary Value**

Mountain Utilities, LLC (185), 223803

2003, \$5,620,000.00 Value, \$562,000.00 Penalty

Action: Approve penalty abatement on unitary value as recommended by staff.  
Ms. Mandel not participating in accordance with Government Code section 7.9.

**Petitions for Reassessment of Nonunitary Value**

Santa Maria Valley Railroad Company (869), 225288

2003, \$1,164,049.00 Nonunitary Value

Action: Approve reassessment on nonunitary value of \$982,799.00 as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Sierra Railroad Company (871), 225254

2003, \$833,246.00 Nonunitary Value

Action: Approve reassessment on nonunitary value of \$652,352.00 as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**Petition for Penalty Abatement on Unitary Escaped Assessment**

Enhanced Global Convergence Services, Inc. (7855), 238385

2003, \$373,000.00 Value, \$37,300.00 Penalty

Action: Deny the petition for penalty abatement on unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**PROPERTY TAX MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE**

With respect to the Property Taxes Matters Not Subject to Contributions Disclosure Statute Agenda, upon a single motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board made the following orders:

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**Unitary Escaped Assessments****Harbor Cogeneration Company (1145)**

2003, \$7,400,000.00 Unitary Value, \$740,000.00 Penalty

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**Alliance Payphone, Inc. (7973)**

2003, \$87,200.00 Unitary Value, \$8,720.00

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**Unitary and Nonunitary Escaped Assessments****SBE California (279)**

2001-02, \$3,349,020.00 Value

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**AT&T Communications, Inc. (2310)**

2001-02, \$487,700.00 Value

Action: Adopt nonunitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**Bay Area Cellular Telephone Company (dba AT&T Wireless Services) (2502)**

2000-02, \$352,791.00 Value

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**GTE Mobilnet of California, Ltd. Partnership (dba Verizon Wireless Services) (2559)**

2001-02, \$449,380.00 Value

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**AT&T Wireless Services of California, LLC (dba AT&T Wireless Services) (2606)**

2002, \$84,612.00 Value

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**Sprint Telephony PCS, LP (2720)**

2003, \$2,195,529.00 Value

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

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Sprint Spectrum, LP (dba Sprint PCS) (2722)

2003, \$98,269.00 Value

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Nextel of California, Inc. (2737)

2001-02, \$517,522.00 Value

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Alpine PCS, Inc. (2746)

2001, \$84,266.00 Value

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

Ubiquitel (2751)

2002, \$68,927.00 Value

Action: Adopt unitary escaped assessment as recommended by staff. Ms. Mandel not participating in accordance with Government Code section 7.9.

**CHIEF COUNSEL MATTERS****RULEMAKING****Adoption of Revised Amendments to Sales and Use Tax Regulation 1591, Medicines and Medical Devices**

Ani Kindal, Senior Tax Counsel, Settlement and Administration Division, stated for the record that the Legal Division was reviewing Executive Order S-2-03, and would request that the Board defer the adoption of the amendments to *Sales and Use Tax Regulation 1591, Medicines and Medical Devices* until the December 4, 2003 Board meeting.

Action: The Board deferred *Sales and Use Tax Regulation 1591, Medicines and Medical Devices*, (Exhibit 11.3) to the December 4, 2003 Board meeting.

**CHIEF COUNSEL MATTERS NOT SUBJECT TO CONTRIBUTION DISCLOSURE STATUTE****PROPERTY TAXES*****State Assessee Procedures***

Kristine Cazadd, Assistant Chief Counsel, Property Tax Section, Legal Division, made introductory remarks regarding written and oral testimony and information provided to the Board in State Assessee Appeals. Board staff recommended that the Rules of Practice be

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amended to include the proposed changes in procedure that requires evidence submitted by Petitioners to include a declaration or certification under penalty of perjury and oral testimony must be presented to the Board under oath (Exhibit 11.4).

Action: Upon motion of Ms. Migden and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered to amended the Rules of Practice, to require evidence submitted by Petitioners to include a declaration or certification under penalty of perjury, and oral testimony must be presented to the Board under oath with regards to State Assessee Appeals.

### ***Findings and Decisions***

TCAST Communications, Inc. (7625), 214613

1999, \$58,000.00 Escape Assessment

2000, \$141,000.00 Escape Assessment

2001, \$1,420,000.00 Escape Assessment

2002, \$280,000.00 Escape Assessment

Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard and Mr. Chiang voting yes, Ms. Mandel not participating in accordance with Government Code section 7.9, the Board approved the Findings and Decision.

## **ADMINISTRATIVE SESSION**

### **ADMINISTRATIVE MATTERS, CONSENT**

With respect to the Administrative Matters, Consent Agenda, upon a single motion of Mr. Leonard, seconded by Mr. Parrish and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board made the following orders:

Action: Adopt the following resolutions extending its best wishes on their respective retirements and its appreciation for their service to the State Board of Equalization and the State of California (Exhibit 11.5).

George H. Fong, Supervising Tax Auditor I, West Covina District Office  
Robert N. McCanne, Business Taxes Representative, Consumer Use Tax Section,  
Headquarters  
Charlotte Paliani, Tax Policy Manager, Tax Policy Division, Headquarters  
Marie R. Romero, Business Taxes Compliance Specialist, Sacramento District  
Office  
Lee Smith, Tax Technician III, Property and Special taxes Department, Fuel  
Taxes Division, Headquarters



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Action: Adopt the following resolution extending its best wishes on her new career and its appreciation for her service to the State Board of Equalization and the State of California (Exhibit 11.6).

Jennifer L. Willis, Chief, Taxpayers' Rights and Equal Employment Opportunity Division, Headquarters

Action: Approve the Board Meeting Minutes of September 10-11, 2003.

Action: Approve the January 2004 Assessors' Handbook Section 531, Residential Building Costs, for Publication (Exhibit 11.7).

Action: Approve the January 2004 Assessors' Handbook Section 534, Rural Building Costs, for Publication (Exhibit 11.8).

Action: Approve the January 2004 Assessors' Handbook Section 581, Equipment Index and Percent Good Factors, for Publication (Exhibit 11.9)

Action: Approve the 2004 Timberland Production Zone Values (Exhibit 11.10).

**PRESENTATION OF RETIREMENT RESOLUTION FOR CHARLOTTE PALIANI**

Ms. Migden expressed the Board's sincere appreciation and gratitude to Charlotte Paliani, Tax Policy Manager, Tax Policy Division, Headquarters, upon her retirement for the years of dedication to the Board of Equalization and the State of California.

**PRESENTATION OF BOARD RESOLUTION FOR JENNIFER WILLIS**

Mr. Leonard expressed the Board's sincere appreciation and gratitude to Jennifer Willis, Chief, Taxpayers' Rights and Equal Employment Opportunity Division, Headquarters, for her leadership and service to the Board of Equalization and the State of California.

**EFFECTS OF PROPOSITION 10 ON CIGARETTE AND TOBACCO PRODUCTS CONSUMPTION**

Joe Fitz, Chief Economist, Research and Statistics Section, Agency Planning and Research Division, made introductory remarks regarding the effects of Proposition 10 on Cigarette and Tobacco Products Consumption (Exhibit 11.11).

Speaker: Sherry Novick, Executive Director, First 5 Association of California  
Anthony Souza, Chief of Strategic Planning, California Children and Families Commission  
Michael Ruane, Executive Director, Children and Families Commission of Orange county  
Casey Beyer, Government Affairs Director, First 5, Los Angeles

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Action: Upon motion of Mr. Leonard, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel voting yes, the Board ordered to increase the Backfill by \$21.7 million.

#### **FINAL ACTION ON PETITION HEARD NOVEMBER 18, 2003**

Kristine Cazadd, Assistant Chief Counsel, Property Taxes Division, Legal Department, requested clarification on *Elk Hills Power, LLC (1126), 224226*.

Action: Upon motion of Ms. Migden, seconded by Mr. Chiang and unanimously carried, Ms. Migden, Mr. Leonard and Mr. Chiang voting yes, Mr. Parrish abstaining, Mr. Westly absent, the Board adopted the staff recommendation of \$296,400,000.00 in the petition of *Elk Hills Power, LLC (1126), 224226*.

The Board recessed at 1:30 p.m. and reconvened at 1:45 p.m. with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

#### **ANNOUNCEMENT OF CLOSED SESSION**

The Board recessed at 1:50 p.m. and reconvened immediately in closed session with Ms. Migden, Mr. Parrish, Mr. Leonard, Mr. Chiang and Ms. Mandel present.

#### **CLOSED SESSION**

The Board met to discuss pending litigation, settlements (Revenue and Taxation Code sections 6901, 7093.5, 30459.1 and 50156.11) and personnel matters (Govt. Code § 11126(a)).

The Board adjourned at 2:05 p.m.

*The foregoing minutes are adopted by the Board on February 18, 2004.*

Note: The following cases were removed from the calendar prior to the meeting: *Otay Mesa Generating Facility, LLC (1134), 223878; Pastoría Energy Facility, LLC (1131), 223879; Metcalf Energy Center, LLC (1133), 223880; Delta Energy Center, LLC (1128), 223881; Calpine Construction Finance Company, LP (1132), 223882; Cabrillo Power II, LLC (1107), 224892; Long Beach Generation, LLC (1111), 225286; AES Alamitos, LLC (1100), 222549; AES Redondo Beach, LLC (1101), 222550; AES Huntington Beach, LLC (1102), 222551; AES Placerita, Inc. (1146), 224763; Duke Energy Moss Landing, LLC (1103), 225284; Duke Energy Morro Bay, LLC (1104), 225287; Duke Energy Oakland, LLC (1105), 224880; Duke Energy South Bay, LLC (1118), 224889; Mirant Potrero, LLC (1108), 224116; and Mirant Delta, LLC (1109), 224114.*